

Fair Political Practices Commission

Memorandum

To: Chairman Getman and Commissioners Downey, Knox and Swanson

From: Kelly L. Winsor, Legal Analyst, Legal Division
John W. Wallace, Assistant General Counsel
Luisa Menchaca, General Counsel

Subject: Annual Technical Clean-Up Packet - Adoption of Amendments to Regulations 18110, 18401, 18404.1, 18451, 18540, 18705.4 and 18997

Date: July 18, 2002

Background:

The Legal Division periodically conducts a review of Commission regulations to keep them current. Several technical "clean-up" amendments are proposed which eliminate outdated references or make similar conforming changes. Staff presented the proposed amendments for regulations 18110, 18401, 18404.1, 18540, 18705.4 and 18997 for pre-notice discussion at the June 2002 meeting. The proposed amendments to regulation 18451 (discussed below) were added to the notice for the technical clean-up packet. All of the proposed amendments are non-substantive in nature. Staff recommends adoption of these amendments.

Overview of the Specific Regulations (attached):

Regulation 18110: Legislative amendments to Government Code section 84211 went into effect in 2001 (Chapter 853, Stats. 2000) which necessitate technical changes to regulation 18110. The regulation specifies the duties of filing officers who receive original campaign disclosure statements. The legislative amendments resulted in renumbering of some section 84211 subdivisions that are cited in the regulation. In addition, section 84211(m) was repealed, so subdivision (b)(2)(E)12 of the regulation is being deleted. Finally, subdivision (b)(2)(E)14 of the regulation (renumbered as paragraph 13) is revised to be consistent with amended section 84211(n), which no longer refers to the June primary and November general elections. As amended, the Act and regulation will simply refer to the state primary and general elections.

Regulation 18401: Regulation 18401 is the major campaign recordkeeping regulation. During the Proposition 34 update at the May 10, 2002 meeting, the Commission agreed that it would be helpful to treasurers to add a reference in regulation 18401 about recordkeeping requirements contained in some of the new Proposition 34 regulations. A reference to the new occupation and employer information provisions of section 85700 and regulation 18570, was added to the text of

regulation 18401. In addition, we propose adding a comment to regulation 18401 alerting treasurers of recordkeeping requirements in these regulations: regulation 18428 concerning affiliated entities, regulation 18536 concerning the transfer and attribution of contributions, and regulation 18540 concerning the allocation of expenditures to a particular election for purposes of the voluntary expenditure ceilings.

Regulation 18404.1: As regulation 18404.1 is currently written, subdivisions (a)(1) and (a)(2) require candidate controlled committees to calculate their debt as of the effective date of the regulation, as opposed to the end of the candidate's term of office. The amendment has the effect of eliminating this unintended result, while limiting application of the latter portion of subdivision (a) to those candidates who, as of February 15, 2002, the effective date of the regulation, held elective office pursuant to an election held prior to January 1, 2001, which was the original intention.

Regulation 18451: The amendments to regulation 18451 are non-substantive additions to subdivisions (c), (e) and (f) for clarification purposes only. Subdivisions (c), (e) and (f) define the terms "candidate," "election year," and "ballot period," respectively. Under the current versions of the regulation, the definitions appear, by their reference to section 20096, to apply only to regular elections. The amendment adds a reference to section 20095 to each subdivision, which would clarify that the definitions are also applicable to special elections. In addition, in subdivision (f), the definition of "ballot period" includes a beginning point for the ballot period, but does not include an ending point. The amendment adds language to indicate when the ballot period ends.

Regulation 18540: Regulation 18540(b) requires that the allocation of expenditures under regulation 18540 shall be reported pursuant to subdivision (b) of regulation 18421.4. Regulation 18421.4 has been amended and the reporting information referred to in regulation 18540 is now addressed in section (c) of regulation 18421.4. This amendment is proposed to correct the reference to regulation 18421.4 in regulation 18540.

Regulation 18705.4: As currently written, regulation 18705.4 states in pertinent part:

"(b) Indirectly involved sources of gifts.

- (1) Sources of gifts which are indirectly involved business entities. If the source of a gift is a business entity, apply the materiality standards stated in Regulation 18705.1(b)."

However, regulation 18705.1(b) reads in pertinent part: "Directly involved business entities." Regulation 18705.1(c) refers to indirectly involved business entities. This amendment is proposed to correct the reference in regulation 18705.4. Other technical, conforming amendments are recommended to attain consistency in referencing other sections of the California Code of Regulations.

Regulation 18997: As currently written, regulation 18997 states in pertinent part:

"(b) Those candidates who have received contributions as defined in 2 Cal. Code Regs. § 18451 of \$1,000 or more in an election year shall be subject to audit."

A definition for contribution is not addressed in regulation 18451. This amendment is proposed to delete the reference to regulation 18451 for a definition of contributions.

Attachments